

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey? Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in honey that are consistent with standards adopted by the FDA regarding Chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The Department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature, January 16, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited? Testing and Sale

A. Definitions

Food Producing Animals? both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area? a country, province, state, or territory or definable geographic region.

Honey? any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains Chloramphenicol.

C. No honey that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No honey from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, including bees or in products from such animals, based upon information that would lead a reasonable person to believe that

Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Honey that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, including bees, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of honey that is in lots of 50 pounds or less.

ii. Four samples are to be taken of honey that is in lots of 51 to 100 pounds.

iii. Twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons.

b. For honey in bulk wholesale containers, each sample shall be at least 1 pound or 12 fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least 8 ounces in size and shall be taken at random throughout each lot.

d. If the honey to be sampled consists of packages of honey grouped together, but labeled under two or more trade or brand names, then the honey packaged under each trade or brand name shall be sampled separately. If the honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of honey up to and including 8 ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per

billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless it is located in a geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the honey or food containing honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the honey.

8. Upon the department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring honey, or any food containing honey, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such honey or food containing honey in Louisiana shall be responsible for having the honey, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full

and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any honey if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. If any certified test results are rejected by the commissioner then any person shipping or holding the honey or food containing honey will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, any such person shall abide by such order until the commissioner lifts the order in writing. Any such person may have the honey retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the honey is certified as being free of Chloramphenicol.

I. The department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any honey or any food containing honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the commissioner.

K. The department may take physical possession and control of any honey or any food containing honey that violate the requirements of this Section if the commissioner finds that the honey or food containing honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals, in certain geographic area(s).

1. The geographic area or areas are:

- a. the country of the People's Republic of China;
- b. the country of Thailand.

2. All honey harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of honey or any food containing honey shall be maintained for two years and shall be open to inspection by the Department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0402#002

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish? Testing and Sale (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. This Rule is being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The Legislature has also urged and requested the commissioner to promulgate rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are

known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule becomes effective upon signature, January 16, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in Shrimp and Crawfish Prohibited? Testing and Sale

A. Definitions

Food Producing Animals? both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area? a country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish? any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish? any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English.

1. The records and information required are:

- a. the quantity and species of shrimp and crawfish acquired or sold;
- b. the date the shrimp or crawfish was acquired or sold;
- c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;
- d. the geographic area where the shrimp or crawfish was harvested;
- e. the geographic area where the shrimp or crawfish was produced processed or packed;
- f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and
- g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. Shrimp or crawfish, that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of shrimp or crawfish that are in lots of 50 pounds or less.

ii. Four samples are to be taken of shrimp or crawfish that are in lots of 51 to 100 pounds.

iii. Twelve samples are to be taken of shrimp or crawfish that are in lots of 101 pounds up to 50 tons.

iv. Twelve samples for each 50 tons are to be taken of shrimp or crawfish that are in lots of over 50 tons.

b. For packaged shrimp or crawfish, each sample shall be at least 8 ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately 1 pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.

c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;
- e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of shrimp or crawfish up to and including one pound, use the entire sample. Shell the shrimp or crawfish, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the shrimp or crawfish being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the shrimp or crawfish.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G Any person who is seeking to bring shrimp or crawfish that is required to be sampled and tested under this

Section, into Louisiana, or who holds, offers or exposes for sale, or sells such shrimp or crawfish in Louisiana shall be responsible for having such shrimp or crawfish sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any shrimp or crawfish if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the shrimp or crawfish will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the shrimp or crawfish retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the shrimp or crawfish are certified as being free of Chloramphenicol.

J. The department may inspect, and take samples for testing, any shrimp or crawfish, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any shrimp or crawfish that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

L. The department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the commissioner finds that the shrimp or crawfish presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the country of the People's Republic of China.

2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions

Foreign Shrimp or Crawfish? any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish? any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such shrimp or crawfish are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp

or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0401#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner Livestock Sanitary Board

Testing for Mycoplasma Bovis (LAC 7:XXI.333-337)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, proposes to adopt rules and regulations regarding Mycoplasma mastitis in dairy cattle through the emergency process of the Louisiana Administrative Procedure Act.

Mycoplasma bovis is an untreatable form of mastitis, which in dairy cattle is a debilitating, and occasionally fatal disease that causes greatly decreased milk production of 50 percent or more or more in dairy cattle and may cause damage to mammary tissue. Production loss caused by mastitis is the largest single economic loss to dairy farmers. The dairy industry provides \$207,000,000 per year to Louisiana's economy.

Therefore it is necessary that the Louisiana Department of Agriculture and Forestry and the dairy industry begin programs immediately to identify and manage this disease by removing any dairy cow which may be infected in order to protect the health, welfare and safety of Louisiana citizens.

This Rule becomes effective upon signature, January 16, 2004, and will remain in effect 120 days or until the promulgation of permanent Rules.

This Rule complies with and is enabled by R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§333. Routine Testing of Dairy Herds

A. All dairy herds in Louisiana shall be tested for *Mycoplasma bovis*, ("Mycoplasma"), which causes an incurable form of mastitis in dairy cattle, in accordance with the following provisions.

1. The Louisiana Department of Agriculture and Forestry, ("department"), shall collect milk samples from a bulk tank sample collected by the milk hauler.

2. The department shall forward the samples to the Mastitis Lab at the Hill Farm Research Station ("HFRS") in Homer, Louisiana for testing.

3. HFRS shall forward the test report for each dairy herd to the department and to the owner of the dairy herd.

B. If a sample from a dairy herd tests positive for Mycoplasma mastitis the department shall collect a second sample directly from the bulk tank holding the dairy herd's milk and send the sample to HFRS for testing. HFRS will send the test result directly to the department, who will then notify the dairy herd's owner of the test results.

C. All dairy herds shall be tested monthly for 12 months. Any dairy herd that tests negative each month for 12 months will then be tested quarterly so long as each test is negative for Mycoplasma mastitis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, Livestock Sanitary Board, LR 30:

§335. Restrictions on Dairy Herds Testing Positive for Mycoplasma mastitis

A. If the second sample from a dairy herd tests positive for Mycoplasma mastitis then that dairy herd shall be placed on a "Mycoplasma Restricted List."

1. Individual members, male and female, of any dairy herd placed on the Mycoplasma Restricted List shall be tested to identify infected animals.

2. Any animal found to be infected with Mycoplasma shall be either immediately sold for slaughter or branded with a mark acceptable to the department to show that the animal can only be sold for slaughter. If any such animal is sold at a livestock auction market it shall be kept in quarantine separate from any other cattle.

3. No animal from a dairy herd that is on the Mycoplasma Restricted List shall be sold or moved for any purpose other than slaughter unless accompanied by a health certificate showing that the animal has had a negative test for Mycoplasma within the 30 days prior to the date of sale or movement.

B. Any dairy herd found to be infected with Mycoplasma shall remain on the Mycoplasma Restricted List until all infected animals are removed and bulk tank samples test negative for six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, Livestock Sanitary Board, LR 30:

§337. Fees

A. The department shall collect from each owner of a dairy herd a fee of no more than \$15 per milk sample to defray the cost of the testing and quarantine programs necessary to prevent, control or eradicate *Mycoplasma* in dairy cattle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, Livestock Sanitary Board, LR 30:

Bob Odom
Commissioner

0402#003

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of

uncompensated care reported by all qualified facilities as required by Senate Bill No. 883 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center? Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau amended the July 1, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2003 Rule. This action is being taken to enhance federal revenue.

Effective February 28, 2004 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals and replaces all Rules governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part V. Medical Assistance Program? Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments

resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Public hospitals included in §305, §307 and §313 shall receive DSH payments up to 175 percent of the hospital's net uncompensated costs.

4. Qualification is based on the hospital's latest filed cost report as of March 31 of the current state fiscal year and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of

the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

c. hospitals shall be deemed disproportionate share providers eligible for reimbursement for inpatient services if their inpatient uninsured utilization rates are in excess of 3 percent;

i. inpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for inpatient services furnished to all persons for the period; or

d. hospitals shall be deemed disproportionate share providers eligible for reimbursement for outpatient services if their outpatient uninsured utilization rates are in excess of 3 percent;

i. outpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for outpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for outpatient services furnished to all persons for the period; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. in addition to the qualification criteria outlined in §303.A.1-5, effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital? a hospital that has an uninsured utilization rate in excess of the mean, plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost? the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from *net uncompensated cost* are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' *net uncompensated cost* are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

C. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B. DSH payments to individual public high uninsured hospitals shall be up to 175 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B.

D. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost? the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital? a qualifying hospital that is not included in §305, §311, §313 or §315.

B. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from *net uncompensated cost* are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' *net uncompensated cost* are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

C. DSH payments to an individual other uninsured hospital shall be based on the hospital's uninsured utilization rate and the distribution of all other uninsured hospitals uninsured utilization rates. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's *net uncompensated cost*, respectively. DSH payments to individual public other uninsured hospitals shall be up to 175 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B.

D. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§309. High Medicaid Hospitals

A. Definition. *High Medicaid Utilization Rate Hospital?* a hospital that has a Medicaid utilization rate in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments and that is not included in §305.

1. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost-reporting period.

B. DSH payments to individual high Medicaid hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual high Medicaid hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying high Medicaid hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified high Medicaid hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for high Medicaid hospitals to be determined by the director of the Bureau of Health Services Financing.

D. A pro rata decrease necessitated by conditions specified in §301.B. for high Medicaid hospitals will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying high Medicaid hospitals; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost? the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Small Rural Hospital? a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994, and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. is located, as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. is located within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 90,000.

B. Payment based on uncompensated cost for qualifying *small rural hospitals* shall be in accordance with the following three pools:

1. *Public (Nonstate) Small Rural Hospitals?* *small rural hospitals* as defined in §311.A.1, which are owned by a local government.

2. *Private Small Rural Hospitals?* *small rural hospitals* as defined in §311.A.1, that are privately owned.

3. *Small Rural Hospitals?* *small rural hospitals* as defined in §311.A.1.i - §311.A.1.k.

C. Payment to hospitals included in §311.B.1 and §311.B.2 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. Payments to all hospitals included in §311.B.3 shall not exceed \$1,200,000 in aggregate and shall be reimbursed the lower of \$300,000 per hospital or each hospital's actual uncompensated cost per their latest filed cost report. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B. for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the department. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a *small rural hospital* contained in §311.A.1. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost? the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital? a hospital that is owned or operated by the State of Louisiana, Department of Health and Hospitals.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 175 percent of the hospital's *net uncompensated costs*. Final payment will be based on the

uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§315. Psychiatric Hospitals

A. Definitions

Net Uncompensated Cost? the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Psychiatric Hospital? a free standing *psychiatric hospital* that is not included in §313.

B. DSH payments to individual free standing *psychiatric hospitals* shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual free standing *psychiatric hospitals* shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying free standing *psychiatric hospital's* actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified free standing *psychiatric hospitals*. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for free standing *psychiatric* to be determined by the director of the Bureau of Health Services Financing

D. A pro rata decrease necessitated by conditions specified in §301.B. for hospitals in §315 will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in §315; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#070

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Durable Medical Equipment Program
HIPAA Implementation**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for medical equipment, prosthetics, orthotics and supplies under the Durable Medical Equipment Program. The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The department is required to implement these codes and definitions or face monetary sanctions.

In compliance with HIPAA requirements, the bureau proposes to amend the Rules governing the billing procedures for durable medical equipment. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act. It is estimated that implementation of

this Emergency Rule is revenue neutral for state fiscal year 2003-2004.

Emergency Rule

Effective March 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the Rules governing the billing and reimbursement of all durable medical equipment. Current Standard Healthcare Common Procedure Coding System (HCPCS) codes and modifiers shall be used to bill for all durable medical equipment, prosthetics, orthotics and supplies.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#068

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Early and Periodic Screening, Diagnosis and
Treatment Program? Early Intervention Services
for Infants and Toddlers with Disabilities
(LAC 50:XV.Chapter 81)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XV. Chapter 81 in the Medical Assistance Program as authorized by R.S. 36:254 pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

Congress enacted the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 to ensure the availability of appropriate public education and related services and supports to children with disabilities and their families. Part C of IDEA addresses the special needs of young children through the provision of financial assistance to States to implement and maintain a statewide, comprehensive, coordinated, multi-disciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families [34 CFR 303.1(a)].

Louisiana's early intervention system under Part C of IDEA, is a comprehensive, coordinated, family centered system of educational and health services for infants and toddlers age birth to age three who have a physical or mental condition, but have been determined to be delayed in cognitive, physical, communication, social/emotional or adaptive development. Previously, the Department of Education served as the lead agency responsible for administering Part C of Idea. However, the Governor mandated the transfer of Part C from the Department of

Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health.

In conjunction with the transfer of Part C, the Bureau of Health Services Financing established early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register*, Volume 29, Number 7) This Rule is being promulgated to continue the provisions of the July 7, 2003 Emergency Rule. Medicaid covered early intervention services include physical therapy, occupational therapy, speech therapy, audiology services, psychological services and targeted case management. These individual services are currently furnished to Medicaid recipients through the outpatient hospital, home health, EPSDT health services, rehabilitation center, and targeted case management service programs. The individual services will continue to be covered through these service programs.

This action is necessary to promote the health and welfare of Medicaid eligible infants and toddlers with disabilities by enhancing the availability of early intervention services and to avoid possible federal sanctions.

Effective March 5, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening,

Diagnosis, and Treatment

Chapter 81. Early Intervention Services

§8101. Reserved.

§8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be an Medicaid eligible infant or toddler age birth to age three; and

2. be enrolled to participate in the Part C program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services includes diagnosis and psychological counseling/therapy for the child and his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the provisions of Part C of the Individuals with Disabilities Education Act in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office of the Secretary

Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Program? Eyeglasses (LAC 50:XV.8501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.8501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau has determined that it is

necessary to revise procedure codes and definitions for Medicaid covered eye wear to comply with HIPAA compliant procedure code descriptions. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act. It is estimated that the implementation of this Emergency Rule will be revenue neutral for state fiscal year 2003-2004.

Effective for dates of services on or after March 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Rules for Early and Periodic Screening, Diagnosis and Treatment eyeglasses to conform to HIPAA compliant standardized procedure codes.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 85. Durable Medical Equipment? Eyeglasses

§8501. Eye Care

A. ...

B. Billing and Reimbursement. Effective March 1, 2004, the Health Care Common Procedure Coding System (HCPCS) shall be used to bill for EPSDT eyewear. Claims for EPSDT eye wear shall be reimbursed in accordance with the Louisiana Medicaid Eye Wear Fee Schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003), amended LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#066

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Facility Need Review
Additional Beds for Certain ICF-MRs
(LAC 48:I.12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 48:I.12503, Determination of Bed Need, as authorized by R.S. 40:2116. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals adopted a Rule governing Facility Need Review in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 Rule was amended in July 1999 to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7). It was further amended in October 2002 to adopt new provisions creating the Emergency Community Home Bed Pool for nonstate-operated community homes (*Louisiana Register*, Volume 28, Number 10).

Act 900 of the 2003 Regular Session of the Louisiana Legislature enacted R.S. 40:2116(G) which grants an exemption from the usual requirements of the Facility Need Review process as set forth in R.S. 40:2116 and in the Department's rules and regulations. Any intermediate care facility for the mentally retarded which serves children or adults suffering from mental retardation, autism, or behavioral problems, with no less than 150 and no more than 180 beds, is eligible for the exemption which is granted for a maximum of 50 additional beds. The Legislature did not appropriate any funds to the department to cover the increased expenses it will incur for Medicaid payments for the residents who will occupy the additional beds. The Department promulgated an Emergency Rule amending the August 1995 Rule governing the Facility Need Review Process in order to implement the provisions of Act 900 (*Louisiana Register*, Volume 29, Number 11). The department has now determined that it is necessary to amend the December 1, 2003 Emergency Rule to waive the deadline for enrolling the additional beds after approval. This action is being taken to promote the health and welfare of Louisiana citizens by assuring that adequate community home beds are available for Medicaid recipients. It is estimated that implementation of this Emergency Rule will continue the fiscal impact of \$2,380,219 for state fiscal year 2003-2004 as stated in the December 1, 2003 Emergency Rule.

Effective February 20, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the December 1, 2003 Emergency Rule on Facility Need Review.

Title 48

PUBLIC HEALTH? GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A. - A.7.h. ...

8. Exception for Additional Beds for Certain ICF-MRs. Any ICF-MR which serves children or adults suffering from mental retardation, autism, or behavioral problems, and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the Department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in Paragraphs A.1 - 6 above, §12501.F.2 or §12505.

B. - B.11 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Pregnant Women Extended Services? Dental Services (LAC 50:XV.16101-16107)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.16101-16103 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage for dental services under the Early and Periodic Screening, Diagnosis and Treatment Program for Medicaid recipients up to age 21. Under the authority of Section 440.210(a)(2) and 442.220(a)(5) of the Code of Federal Regulations, the bureau expanded coverage of certain designated dental services to include Medicaid eligible pregnant women ages 21 through 59 in order to address their periodontal needs that occur during pregnancy. Medicaid coverage of these dental services ends at the conclusion of the pregnancy. This Emergency Rule is being promulgated to continue the provisions contained in the November 1, 2003 Rule.

This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and their unborn children by addressing those periodontal needs that may affect the pregnancy.

Effective for dates of service on and after March 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the coverage of the dental services for pregnant women.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16101. Recipient Qualifications

A. In order to qualify for dental services, a Medicaid eligible pregnant woman must be age 21 through 59 and certified for Medicaid as categorically eligible.

B. Pregnant women who are certified for Medicaid as Qualified Medicare Beneficiaries do not qualify for coverage

of dental services unless these services are covered by Medicare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§16103. Provider Responsibilities

A. The attending physician for obstetrical care must complete the Referral for Pregnancy-Related Dental Services Form (BHSF Form 9M), including the expected date of delivery. The dental provider must obtain the completed BHSF 9-M prior to the delivery of dental services. This form shall be kept on file at the treating dentist's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§16105. Covered Services

A. The following dental services are covered for Medicaid eligible pregnant women:

Description
Comprehensive Periodontal Evaluation – New or Established Patient
Intraoral - Periapical First Film
Intraoral - Periapical Each Additional Film
*Intraoral - Occlusal Film
Bitewings, Two Films
*Panoramic Film
Prophylaxis – Adult
* Amalgam, One Surface, Primary or Permanent
*Amalgam, Two Surfaces, Primary or Permanent
*Amalgam, Three Surfaces, Primary or Permanent
*Amalgam, Four or More Surfaces, Permanent
*Resin-based Composite, One Surface, Anterior
*Resin-based Composite, Two Surfaces, Anterior
*Resin-based Composite, Three Surfaces, Anterior
*Resin-based Composite, Four or More Surfaces or Involving Incisal Angle, Anterior
*Resin-based Composite Crown, Anterior
*Prefabricated Stainless Steel Crown, Permanent Tooth
*Prefabricated Resin Crown
*Pin Retention, Per Tooth, In Addition to Restoration
*Periodontal Scaling and Root Planing - Four or More Contiguous Teeth or Bounded Teeth Spaces Per Quadrant
*Full Mouth Debridement to Enable Comprehensive Evaluation and Diagnosis
Extraction, Erupted Tooth or Exposed Root (Elevation and/or Forceps Removal)
*Surgical Removal of Erupted Tooth Requiring Elevation of Mucoperiosteal Flap and Removal of Bone and/or Section of Tooth
*Removal of Impacted Tooth, Soft Tissue
*Removal of Impacted Tooth, Partially Bony
*Prior Authorization Required

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§16107. Reimbursement

A. Reimbursement for these services is a flat fee based on the fee schedule established by the Bureau for the Early and Periodic Screening, Diagnosis and Treatment Program

minus the amount which any third party coverage would pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#071

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Rehabilitation Services? Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau adopted a Rule establishing the reimbursement methodology for EPSDT rehabilitation services in April of 1997 (*Louisiana Register*, Volume 23, Number 4). The bureau also adopted a Rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation centers and outpatient hospital settings in June of 1997 (*Louisiana Register*, Volume 23, Number 6). The bureau adopted a subsequent Rule in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register*, Volume 27, Number 5). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided

to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the bureau increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services (*Louisiana Register*, Volume 28, Number 7).

This Emergency Rule is being promulgated to continue the provisions contained in the July 6, 2002 Rule. This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program.

Emergency Rule

Effective for dates of services on or after March 2, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1997, June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals, rehabilitation centers, home health agencies and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services providers to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services. The new reimbursement rates for rehabilitation services rendered to Medicaid recipients up to the use of three are as follows.

Home Health Agencies and Outpatient Hospitals

Procedure Name	New Rate
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 56.00
Visit w/Procedure(s) 45 Minutes	\$ 56.00
Visit w/Procedure(s) 60 Minutes	\$ 74.00
Visit w/Procedures 90 Minutes	\$112.00
Procedures and Modalities 60 Minutes	\$ 74.00
Pt and Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 45 Minutes	\$ 45.00
Ot 60 Minutes	\$ 60.00

Rehabilitation Centers

Procedure Name	New Rate
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 51.00
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lang/Hear Therapy 30 Minutes	\$ 26.00
Sp/Lang/Hear Therapy 45 Minutes	\$ 39.00
Sp/Lang/Hear Therapy 60 Minutes	\$ 52.00
Visit w/Procedure(s) 30 Minutes	\$ 34.00
Visit w/Procedure(s) 45 Minutes	\$ 51.00
Visit w/Procedure(s) 60 Minutes	\$ 68.00
Visit w/Procedure(s) 75 Minutes	\$ 85.00
Visit w/Procedure(s) 90 Minutes	\$102.00
Ctr Visit One/More Modal/Proc 15 Min utes	\$ 17.00
Procedures and Modalities 60 Minutes	\$ 68.00
Pt and Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 30 Minutes	\$ 26.00
Ot 45 Minutes	\$ 39.00
Ot 60 Minutes	\$ 52.00

EPSDT Health Services

Procedure Name	New Rate
Electrical Stimulation	\$ 17.00
Pt-One Area-Therapeutic-30 Minutes	\$ 17.00
Pt-Neuromuscular Reed-30 Minutes	\$ 17.00
Pt-Gait Training-30 Minutes	\$ 34.00
Orthotic Training	\$ 14.00
Kinetic Act One Area-30 Minutes	\$ 14.00
Physical Performance Test	\$ 14.00
Physical Therapy Evaluation/Re-Evaluation	\$ 92.00
Occ Therapy Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Therapy 30 Minutes	\$ 26.00
Speech/Language Therapy add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy 20 Minutes	\$ 13.00
Speech Group Therapy Add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 52.00
Speech Lang Hearing Therapy 20 Minutes	\$ 17.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 52.00
Procedures And Modalities 30 Minutes	\$ 34.00
Procedures And Modalities 45 Minutes	\$ 52.00

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

Interested persons may submit written comments to Ben A. Bearden, at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0402#072

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Reporting Requirements and Child Immunization
(LAC 67:III.1257, 1998, 5103, 5104, 5107 and 5347)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III §1257 in the Family Independence Temporary Assistance Program (FITAP), §§5103 and 5107 in the Child Care Assistance Program (CCAP) and §5347 in the Kinship Care Subsidy Program (KCSP) and to adopt §§1998 and 5104 in the Food Stamp and Child Care Assistance Programs effective February 1, 2004. This Rule shall remain in effect for a period of 120 days.

Pursuant to 7CFR Part 273, amendments are necessary to the FITAP, CCAP, KCSP and Food Stamp Programs, in order to comply with the federal mandates regarding reporting requirements and to avoid federal penalties and sanctions that could occur when benefits or services are received inappropriately as a result of inaccurate or unreported information. The agency intends to repeal §5103.D. of the Child Care Assistance Program and the information contained in this section will be adopted as

§5104, Reporting Requirements. Section 1998, Reporting Requirements, will be adopted to specify reporting requirements in the Food Stamp Program. In addition, §§1257 and 5347 are being amended to clarify reporting requirements for FITAP and KCSP. The reorganized sections will contain information mandated by the federal regulations as well as information that aligns the reporting requirements of the FITAP, CCAP, KCSP and Food Stamp Program.

Additionally, federal regulations mandate that all children receiving child care services be immunized and that verification of such be provided. In order to comply with federal regulations and to avoid severe penalties or sanctions, the agency intends to amend §5107, Child Care Providers, to require that Family Day Care Home providers retain an immunization record signed/stamped by a physician or physician's designee on each child in care verifying the child has had or is in the process of receiving all age-appropriate immunizations as required by the Office of Public Health. §5107B.1.d. is being amended for technical reasons only.

Title 67

SOCIAL SERVICES

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1257. Reporting Requirements

A. Effective February 1, 2004, a FITAP household that is not included in a Food Stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, a FITAP household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq. 7 CFR Part 273

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter L. Reporting Changes

§1998. Reporting Requirements

(Effective February 1, 2004)

A. A Food Stamp household that is not included in semi-annual reporting shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A Food Stamp household that is included in semi-annual reporting is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5103. Conditions of Eligibility

A. - C. ...

D. Repealed. (Effective February 1, 2004)

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1833 (September 2003), LR 30:

§5104. Reporting Requirements

(Effective February 1, 2004)

A. Low Income Child Care household that is not included in a Food Stamp semi-annual reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A Low Income Child Care household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual reporting requirements in accordance with §2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. a change in child care provider,
2. termination of any TEMP's employment or training,

or

3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:30

§5107. Child Care Providers

A. - B. ...

1. To be eligible for participation, a Family Child Day Care Home provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. - c. ...

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter; and

e. - f. ...

g. effective February 1, 2004, retain an immunization record signed/stamped by a physician or a physician's designee on each child receiving care verifying the child has had, or is in the process of receiving all age-appropriate immunizations as required by the Office of Public Health. No Family Day Home Provider is required to comply with this provision if a child's parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical

reasons, or if the parent or guardian objects to the procedure on religious grounds.

B.2 - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357(February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:

Subchapter B. Conditions of Eligibility

§5347. Reporting Changes

A. Effective February 1, 2004, a KCSP household that is not included in a Food Stamp semi-annual reporting household shall report any change that affects eligibility. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. Effective February 1, 2004, a KCSP household that is included in a Food Stamp semi-annual reporting household is subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:

Ann Silverberg Williamson
Secretary

0402#007

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

TANF Initiatives (LAC 67:III.Chapters 54 and 55)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III, Subpart 15, Chapter 55, §§5505, 5507, 5509, 5525, and 5539, to repeal §5529 and Subpart 14, Chapter 54, the Teen Pregnancy Prevention Program, and to adopt §§5575 and 5577 effective February 18, 2004. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of October 21, 2003, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in March 2004).

Pursuant to Act 14 of the 2003 Legislative Session, the agency is amending the following TANF Initiatives: Section 5505 is being amended to revise the TANF goals being met by the services provided and to clarify the eligibility requirements for 5505; Section 5507 is being amended to include additional services that will be provided by the Workforce Commission and the Louisiana Community and Technical College System; Sections 5509 and 5539 are being

amended to remove references to the Office of Women's Services and the Supreme Court of Louisiana respectively. By using non-specific language regarding the TANF partners, future amendments to the Louisiana Administrative Code will be avoided. Section 5525 is being amended to specify targeted population that will be eligible for services.

The agency is repealing Section 5529, Youth in Transition, as funds are no longer being allocated for this program. Additionally, the agency is repealing Subpart 14, Chapter 54, Teen Pregnancy Prevention Program. The program will now be administered by the Department of Education through a Memorandum of Understanding with the agency. Program information will be incorporated into Chapter 55, TANF Initiatives and adopted as Section 5575, Teen Pregnancy Prevention Program. Section 5577, Skills Training for Incarcerated Fathers, is being adopted as a new TANF Initiative.

The authorization for emergency action is contained in Act 14 of the 2003 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 14. Teen Pregnancy Prevention

Chapter 54. Teen Pregnancy Prevention Program

§5401. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001), repealed LR 30:

§5403. Strategy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1996 (September 2002), repealed LR 30:

§5405. Goals and Objectives

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1996 (September 2002), repealed LR 30:

§5407. Program Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:1599 (July 2002), repealed LR 30:

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5505. Nonpublic School Early Childhood Development Program

A. ...

B. These services meet the TANF goal to reduce the incidence of out-of-wedlock births by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to families in which the child is one year younger than the eligible age for public school kindergarten and who have earned income at or below 200 percent of poverty level.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350 (February 2002), amended LR 29:715 (May 2003), LR 30:

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to create programs to provide adult education and literacy, basic skills training, jobs skills training, court-ordered training and job retention services to low-income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:870 (April 2002), amended LR 30:

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002), amended LR 30:

§5525. Pre-GED/Skills Option Program

A. - B. ...

C. Eligibility for services is not limited to needy families; however certain populations are targeted for services provided by the Options Program and the JAG LA Program. They include:

1. Eligible participants in the Options Program shall be students 16 years of age or older and meet one or more of the following:

- a. failed the eighth grade LEAP 21 English language arts or math test for one or more years;
- b. failed English language arts, math, science, or social studies portion of the Graduation Exit Exam;
- c. participated in alternate assessment; or
- d. earned not more than 5 Carnegie units by age 17, not more than 10 Carnegie units by age 18, and not more than 15 Carnegie units by age 19.

2. Eligible participants in the JAG LA Program shall be 16-21 years of age (or at least 15 years of age in the middle school pilot program) and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 30:

§5529. Youth in Transition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session of the Louisiana Legislature; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), repealed LR 30:

§5539. Truancy Assessment and Service Centers

A. OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 30:

§5575. Teen Pregnancy Prevention Program

Effective July 1, 2003

A. The Department of Social Services, Office of Family Support, shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling youth ages 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy.

B. Services offered by providers meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing research-based prevention and intervention

programming for students who live in poor communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. Eligibility for services is not limited to needy families. Custodial and non-custodial parents, legal guardians, or caretaker relatives of youth who are participants in the program may also receive parenting training and educational services.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5577. Skills Training for Incarcerated Fathers

Effective September 1, 2003

A. The Office of Family Support shall enter into Memoranda of Understanding to provide educational rehabilitation services to incarcerated male inmates to assist them in becoming self-sustaining individuals upon release.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to male inmates housed in a local or state Louisiana correctional facility, who have served a majority of their sentence and are nearing release and who are the parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Gwendolyn Hamilton
Secretary

0402#047